

SENATE BILL 107

C4

EMERGENCY BILL

0lr0164
CF HB 91

By: **The President (By Request – Administration)**

Introduced and read first time: January 14, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Unemployment Insurance – Modernization and Tax**
3 **Relief Act**

4 FOR the purpose of providing for an alternative method to determine the base period
5 for unemployment insurance purposes under certain circumstances; altering
6 certain provisions relating to benefit eligibility of certain part-time workers;
7 providing that certain training benefits may not be charged to employers;
8 creating an additional training benefit for certain individuals; providing for the
9 calculation and limit for the additional training benefits; prohibiting the denial
10 of additional training benefits under certain circumstances; prohibiting
11 payment of additional training benefits after a certain period; reducing the
12 interest rate on certain late payments; adjusting the applicable table of
13 contribution rates for a certain time period under certain circumstances;
14 defining certain terms; altering certain definitions; providing for the effective
15 dates and application of this Act; making this Act an emergency measure; and
16 generally relating to unemployment insurance.

17 BY repealing and reenacting, without amendments,
18 Article – Labor and Employment
19 Section 8–101(a) and 8–802
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2009 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Labor and Employment
24 Section 8–101(b) and (v), 8–611(e), 8–612(d)(6), 8–628, and 8–903(a)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2009 Supplement)

27 BY adding to
28 Article – Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–812
2 Annotated Code of Maryland
3 (2008 Replacement Volume and 2009 Supplement)

4 Preamble

5 WHEREAS, The national recession has resulted in an unprecedented demand
6 on Maryland’s Unemployment Insurance Fund; and

7 WHEREAS, This prolonged recession of unanticipated severity has triggered a
8 mandated increase in employers’ rates for 2010 while the State’s businesses are still
9 struggling with the effects of the economic downturn; and

10 WHEREAS, Despite increased revenues from the rate shift and the relative
11 health of Maryland’s Unemployment Insurance Fund compared to 25 other State
12 funds that are currently borrowing from the federal government, with some in
13 bankruptcy, the Fund’s solvency will remain at risk through 2010; and

14 WHEREAS, The State must pursue simultaneously the critical objectives of
15 helping employers push through the recession with greater resources for job creation
16 and preservation while also maintaining Fund solvency to ensure continued benefit
17 payments for unemployed workers; and

18 WHEREAS, The State can help replenish the Fund by securing federal
19 incentive funds made available to states through the American Recovery and
20 Reinvestment Act of 2009; and

21 WHEREAS, States may secure these incentive distributions by enacting certain
22 measures designed to modernize their unemployment insurance laws to reflect the
23 changing modern workforce; and

24 WHEREAS, Modernization incentive distributions in the amount of \$126.8
25 million dollars have been earmarked for Maryland’s Unemployment Insurance Fund;
26 and

27 WHEREAS, If the State does not meet the federal requirements for
28 modernization by September 30, 2011, its \$126.8 million share of the total federal
29 incentive funds will no longer be available; and

30 WHEREAS, The State can help employers retain more resources for job creation
31 and preservation during this recession by temporarily reducing and deferring their
32 unemployment insurance rate obligations; and

33 WHEREAS, Reducing and deferring employers’ unemployment insurance rate
34 obligations while also securing federal incentive funds will ease the burden of the
35 recession on employers and help them preserve and create jobs without further
36 jeopardizing the Fund’s solvency and the continued payment of workers’ benefits; now,
37 therefore,

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Labor and Employment**

4 8–101.

5 (a) In this title the following words have the meanings indicated.

6 (b) “Base period” means:

7 (1) the first 4 of the last 5 completed calendar quarters immediately
8 preceding the start of the benefit year; OR

9 (2) **THE 4 MOST RECENTLY COMPLETED CALENDAR QUARTERS**
10 **IMMEDIATELY PRECEDING THE START OF THE BENEFIT YEAR ONLY IF THE**
11 **INDIVIDUAL APPLYING FOR BENEFITS DOES NOT QUALIFY FOR ANY BENEFITS**
12 **UNDER § 8–802 OF THIS TITLE USING THE DEFINITION IN ITEM (1) OF THIS**
13 **SUBSECTION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article – Labor and Employment**

17 8–101.

18 (a) In this title the following words have the meanings indicated.

19 (v) “Part–time worker” means an individual:

20 (1) whose availability for work is restricted to part–time work; and

21 (2) who [works] **WORKED** [predominantly on a part–time basis
22 throughout the year for] at least 20 hours per week **IN PART–TIME WORK FOR A**
23 **MAJORITY OF THE WEEKS OF WORK IN THE BASE PERIOD.**

24 8–612.

25 (d) (6) **(I)** For any calendar year beginning on or after January 1,
26 2006, when the Unemployment Insurance Fund balance on September 30 of the
27 immediately preceding calendar year is not in excess of 3% of the total taxable wages
28 in covered employment for the 4 completed calendar quarters immediately preceding
29 September 30, the Table of Rates in this paragraph of this subsection shall apply.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, FOR ANY CALENDAR YEAR IN WHICH THE TAXABLE WAGE BASE OF THE PRECEDING YEAR DECREASED BY MORE THAN \$1 BILLION, AND THE UNEMPLOYMENT INSURANCE FUND RECEIVES FUNDS FROM SOURCES OTHER THAN THOSE IN § 8-403(A)(1) THROUGH (7) OF THIS TITLE IN AN AMOUNT GREATER THAN THE DIFFERENCE IN REVENUES COLLECTED IN TABLE E AND TABLE F, THE TABLE OF RATES IN PARAGRAPH (5) OF THIS SUBSECTION SHALL APPLY.

Table of Rates – Table F

	Employing Unit's Benefit Ratio	Employing Unit's Rate
13	(1) .0000 —	2.20%
14	(2) .0001 — .0027	3.10%
15	(3) .0028 — .0054	3.40%
16	(4) .0055 — .0081	3.70%
17	(5) .0082 — .0108	4.00%
18	(6) .0109 — .0135	4.30%
19	(7) .0136 — .0162	4.60%
20	(8) .0163 — .0189	4.90%
21	(9) .0190 — .0216	5.20%
22	(10) .0217 — .0243	5.50%
23	(11) .0244 — .0270	5.80%
24	(12) .0271 — .0297	6.10%
25	(13) .0298 — .0324	6.40%
26	(14) .0325 — .0351	6.70%
27	(15) .0352 — .0378	7.00%
28	(16) .0379 — .0405	7.30%
29	(17) .0406 — .0432	7.60%
30	(18) .0433 — .0459	7.90%
31	(19) .0460 — .0486	8.20%
32	(20) .0487 — .0513	8.50%
33	(21) .0514 — .0540	8.80%
34	(22) .0541 — .0567	9.10%
35	(23) .0568 — .0594	9.40%
36	(24) .0595 — .0621	9.70%
37	(25) .0622 — .0648	10.00%
38	(26) .0649 — .0675	10.30%
39	(27) .0676 — .0702	10.60%
40	(28) .0703 — .0729	10.90%
41	(29) .0730 — .0756	11.20%
42	(30) .0757 — .0783	11.50%
	(31) .0784 — .0810	11.80%

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(32)	.0811 — .0837	12.10%
(33)	.0838 — .0864	12.40%
(34)	.0865 — .0891	12.70%
(35)	.0892 — .0918	13.00%
(36)	.0919 — .0945	13.30%
(37)	.0946 — and over	13.50%

8-628.

Except as provided in § 8-201.1 of this title, a contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of ~~[1.5%]~~ **1.0%** per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

8-802.

An individual is eligible for benefits if, during the base period:

(1) the individual was paid wages of at least the lower quarterly wage amount in line 1 of the schedule of benefits in § 8-803 of this subtitle for covered employment during the calendar quarter in which the individual's wages were highest; and

(2) the individual was paid wages for covered employment that, during at least 2 calendar quarters combined, are at least 1.5 times the upper limit of the wages for the line in the schedule of benefits for which the individual qualifies.

8-903.

(a) (1) Except as otherwise provided in this section, to be eligible for benefits an individual shall be:

- (i) able to work;
- (ii) available for work; and
- (iii) actively seeking work.

(2) In determining whether an individual actively is seeking work, the Secretary shall consider:

- (i) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work; and
- (ii) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

1 (3) [The Secretary may consider a part-time worker as meeting the
2 requirements of this section if the part-time worker:] **A PART-TIME WORKER MAY**
3 **NOT BE DETERMINED TO BE INELIGIBLE FOR THE RECEIPT OF BENEFITS FOR A**
4 **WEEK IN WHICH THE PART-TIME WORKER IS AVAILABLE FOR AND SEEKING**
5 **ONLY PART-TIME WORK IF THE PART-TIME WORKER:**

6 (i) [is eligible for benefits under § 8-803 of this title based on
7 wages that are predominantly earned from part-time work;

8 (ii)] is actively seeking part-time work; **AND**

9 [(iii) is available for part-time work for at least the number of
10 hours worked at the part-time worker's previous employment;

11 (iv) does not impose any other restrictions on the part-time
12 worker's ability to work or availability for work; and

13 (v)] **(II)** is in a labor market in which a reasonable demand
14 exists for part-time work.

15 **(4) FOR THE PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION,**
16 **AN INDIVIDUAL IS SEEKING ONLY PART-TIME WORK IF THE INDIVIDUAL IS ABLE**
17 **TO WORK:**

18 **(I) HOURS THAT ARE COMPARABLE TO THE INDIVIDUAL'S**
19 **WORK AT THE TIME OF THE MOST RECENT SEPARATION FROM PART-TIME**
20 **EMPLOYMENT; AND**

21 **(II) AT LEAST 20 HOURS PER WEEK.**

22 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article – Labor and Employment**

25 8-611.

26 (e) The Secretary may not charge benefits paid to a claimant against the
27 earned rating record of an employing unit if:

28 (1) the claimant left employment voluntarily without good cause
29 attributable to the employing unit;

30 (2) the claimant was discharged by the employing unit for gross
31 misconduct as defined in § 8-1002 of this title;

1 (3) the claimant was discharged by the employing unit for aggravated
2 misconduct as defined in § 8–1002.1 of this title;

3 (4) the claimant left employment voluntarily to accept better
4 employment or enter training approved by the Secretary; [or]

5 (5) the employing unit participates in a work release program that is
6 designed to give an inmate of a correctional institution an opportunity to work while
7 imprisoned and unemployment was the result of the claimant’s release from prison;
8 **OR**

9 **(6) THE CLAIMANT WAS PAID ADDITIONAL TRAINING BENEFITS**
10 **UNDER § 8–812 OF THIS TITLE.**

11 **8–812.**

12 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
13 **MEANINGS INDICATED.**

14 **(2) “DECLINING OCCUPATION” MEANS AN OCCUPATION IN**
15 **WHICH:**

16 **(I) THERE IS A CURRENT LACK OF EMPLOYMENT**
17 **OPPORTUNITIES IN THE INDIVIDUAL’S LABOR MARKET AREA FOR THE**
18 **OCCUPATIONAL SKILLS FOR WHICH THE INDIVIDUAL IS QUALIFIED BY TRAINING**
19 **AND EXPERIENCE; AND**

20 **(II) THE LACK OF EMPLOYMENT OPPORTUNITIES IS**
21 **EXPECTED TO CONTINUE FOR AN EXTENDED PERIOD OF TIME.**

22 **(3) “DEMAND OCCUPATION” MEANS AN OCCUPATION IN A LABOR**
23 **MARKET AREA WHERE WORK OPPORTUNITIES ARE AVAILABLE AND QUALIFIED**
24 **APPLICANTS ARE LACKING.**

25 **(4) (I) “SIMILAR STIPEND” MEANS AN AMOUNT PROVIDED**
26 **UNDER A PROGRAM WITH SIMILAR AIMS, SUCH AS PROVIDING TRAINING TO**
27 **INCREASE EMPLOYABILITY, AND IN APPROXIMATELY THE SAME AMOUNTS.**

28 **(II) “SIMILAR STIPEND” DOES NOT INCLUDE TRAINING**
29 **COSTS SUCH AS PAYMENTS FOR TUITION AND BOOKS.**

30 **(B) AN INDIVIDUAL WHO IS ENTITLED TO BENEFITS UNDER THIS TITLE**
31 **SHALL BE ELIGIBLE FOR ADDITIONAL TRAINING BENEFITS UNDER THIS**
32 **SECTION IF THE SECRETARY DETERMINES THAT THE INDIVIDUAL:**

1 **(1) IS UNEMPLOYED;**

2 **(2) HAS EXHAUSTED ALL RIGHTS TO UNEMPLOYMENT INSURANCE**
3 **BENEFITS UNDER FEDERAL AND STATE LAW;**

4 **(3) (I) SEPARATED FROM A DECLINING OCCUPATION; OR**

5 **(II) HAS BEEN INVOLUNTARILY AND INDEFINITELY**
6 **SEPARATED FROM EMPLOYMENT AS A RESULT OF A PERMANENT REDUCTION OF**
7 **OPERATIONS AT THE INDIVIDUAL'S PLACE OF EMPLOYMENT; AND**

8 **(4) IS ENROLLED IN A TRAINING PROGRAM APPROVED BY THE**
9 **SECRETARY OR IN A JOB TRAINING PROGRAM AUTHORIZED BY THE**
10 **WORKFORCE INVESTMENT ACT OF 1998, AS AMENDED, THAT PREPARES THE**
11 **INDIVIDUAL FOR ENTRY INTO A DEMAND OCCUPATION IF THE SECRETARY**
12 **DETERMINES THAT THE INDIVIDUAL:**

13 **(I) ENROLLED IN THE TRAINING BEFORE THE END OF THE**
14 **BENEFIT YEAR ESTABLISHED WITH RESPECT TO THE SEPARATION THAT MADE**
15 **THE INDIVIDUAL ELIGIBLE FOR THE TRAINING BENEFIT;**

16 **(II) IS MAKING SATISFACTORY PROGRESS TO COMPLETE**
17 **THE TRAINING; AND**

18 **(III) IS NOT RECEIVING SIMILAR STIPENDS OR OTHER**
19 **ALLOWANCES FOR NONTRAINING COSTS.**

20 **(C) THE ADDITIONAL WEEKLY TRAINING BENEFIT AMOUNT SHALL**
21 **EQUAL THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT FOR THE MOST RECENT**
22 **BENEFIT YEAR LESS ANY DEDUCTIBLE INCOME AS DETERMINED UNDER THIS**
23 **TITLE.**

24 **(D) THE MAXIMUM AMOUNT OF ADDITIONAL TRAINING BENEFITS**
25 **PAYABLE TO AN INDIVIDUAL SHALL BE EQUAL TO 26 TIMES THE INDIVIDUAL'S**
26 **AVERAGE WEEKLY BENEFIT AMOUNT FOR THE MOST RECENT BENEFIT YEAR.**

27 **(E) AN INDIVIDUAL WHO IS RECEIVING ADDITIONAL TRAINING**
28 **BENEFITS MAY NOT BE DENIED THOSE BENEFITS DUE TO THE APPLICATION OF §**
29 **8-903(A)(1)(II) AND (III) OF THIS TITLE.**

30 **(F) ADDITIONAL TRAINING BENEFITS MAY NOT BE PAYABLE FOR MORE**
31 **THAN 1 YEAR FOLLOWING THE END OF THE BENEFIT YEAR ESTABLISHED WITH**

1 RESPECT TO THE SEPARATION THAT MADE THE INDIVIDUAL ELIGIBLE FOR
2 ADDITIONAL TRAINING BENEFITS.

3 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
4 take effect March 1, 2011, and shall apply to all claims filed establishing a new benefit
5 year on or after March 6, 2011.

6 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
7 take effect March 1, 2011, and shall apply to all claimants in approved training on or
8 after March 6, 2011.

9 SECTION 6. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety,
11 has been passed by a ye and nay vote supported by three-fifths of all the members
12 elected to each of the two Houses of the General Assembly and, except as provided in
13 Sections 4 and 5 of this Act, shall take effect from the date it is enacted.